

EXHIBIT C

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 WESTERN DIVISION - LOS ANGELES

4 CORY SPENCER, et al.,) Case No. CV 16-2129-SJO (RAOx)
5 Plaintiffs,) Los Angeles, California
6 v.) Tuesday, July 25, 2017
7 LUNADA BAY BOYS, et al.,) 9:34 A.M. to 10:12 A.M.
8 Defendants.) Telephonic Conference
9

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11 TRANSCRIPT OF PROCEEDINGS
12 BEFORE THE HONORABLE ROZELLA A. OLIVER,
13 UNITED STATES MAGISTRATE JUDGE.
14

15 Appearances: See Page 2
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1 LOS ANGELES, CALIFORNIA, TUESDAY, JULY 25, 2017, 9:34 A.M.

2 (Call to Order of the Court.)

3 THE CLERK: Please be seated.

4 Calling Case No. CV 16-2129, *Spencer v. Lunada Bay*
5 *Boys.*

6 Counsel, please enter your appearance for the
7 record.

8 (Multiple speakers.)

9 VICTOR J. OTTEN: Vic Otten for plaintiffs.

10 SAMANTHA D. WOLFF: Samantha Wolff for plaintiffs.

11 TERA A. LUTZ: Tera Lutz for Defendant Sang Lee.

12 DANIEL M. CROWLEY: Dan Crowley also for Defendant
13 Sang Lee.

14 MARK C. FIELDS: Mark Fields for Defendant
15 Angelo Ferrara and N.F.

16 JOHN E. STOBART: John Stobart for Defendant
17 Brant Blakeman.

18 TIFFANY L. BACON: Tiffany Bacon for defendants
19 Charlie Ferrara and Frank Ferrara.

20 KEN BACON: Ken Bacon, Gonzales P.O.A. -- excuse me
21 -- Palos Verdes P.O.A. Sorry.

22 JACOB SONG: Jacob Song for the City of
23 Palos Verdes Estates and Chief Kepley.

24 THE COURT: All right. Good morning, everybody.

25 We are here today for the purpose of discussing the

1 in-camera production of the extraction report of the imaged
2 cell phone for Defendant Sang Lee.

3 As a preliminary matter, I -- we received an e-mail
4 yesterday indicating that there were other topics that the
5 parties wanted to discuss. I am -- unfortunately, I'm not
6 available to do that. I have a criminal calendar that I have
7 to begin moving on later this morning, but what we -- I
8 propose is that after this conference call that the parties
9 -- the relevant parties meet and confer to propose some
10 dates. I think the dates are going to have to be for next
11 week, and if you could propose several dates and times, I
12 think that would be helpful, and then we'll just go from
13 there in terms of trying to coordinate a time that works best
14 for everybody.

15 MS. WOLFF: Your Honor, if I may. This is
16 Samantha Wolff.

17 THE COURT: Yes.

18 MS. WOLFF: So the only problem we have with that
19 is that the -- one of the issues that I wanted to discuss
20 relates to Charlie and Frank Ferrara and the production that
21 was supposed to occur last week, and we didn't receive part
22 of the production, we still haven't, and our summary judgment
23 opposition is due on next Monday, and their motion was filed
24 yesterday. So we're now trying to oppose a motion without
25 discovery that we were supposed to get by court order.

1 THE COURT: You said their summary judgment was
2 filed yesterday and your opposition is due Monday?

3 MS. WOLFF: Uh-huh. For all of the defendants
4 except for the City and Sang Lee. We filed a request for an
5 extension of time yesterday, but obviously we haven't heard,
6 and I'm -- we're not going to assume that that will be
7 granted so --

8 THE COURT: Okay. Well -- all right. Well, we
9 will -- we'll take a look at our calendar. Again, that's --
10 I just -- I'm not in a position to be able to look at that --
11 or to turn to that today given that I have a criminal
12 calendar that I have to move.

13 MS. WOLFF: Yeah. I understand. We had e-mailed
14 the Court on last Thursday in request for a time Monday or
15 Tuesday of this week.

16 THE COURT: Right. But that was never going to
17 happen in addition --

18 MS. WOLFF: Okay.

19 THE COURT: -- just because -- again, because the
20 calendar --

21 MS. WOLFF: I had misunderstood the -- I --

22 THE COURT: Oh. I'm sorry.

23 MS. WOLFF: Yeah.

24 THE COURT: The calendar is Monday and Tuesday --
25 criminal calendar -- and then what happens frequently is that

1 you have continued matters and, as, I mean, you can all
2 appreciate, these are individuals who are detained so --

3 MS. WOLFF: Yeah.

4 THE COURT: And under the Rules, I have to turn to
5 those matters within a certain amount of time.

6 MS. WOLFF: I understand.

7 THE COURT: So -- okay. So I guess what we'll just
8 have to do is sort out -- sort that out a little bit later.

9 Okay. I think I heard Ms. Bacon? She's -- you're
10 on the call; is that correct? Ms. Bacon, are you there?

11 MS. BACON: Yes, Your Honor, I'm here.

12 THE COURT: Okay. All right. So in light of the
13 deadlines that the plaintiff is facing with respect to
14 oppositions, I am going to ask you to work diligently with
15 Ms. Wolff to propose multiple dates and times for the
16 remainder of the week so that the Court can attempt to get
17 this on calendar as quickly as possible.

18 MS. BACON: Yes, Your Honor.

19 MS. WOLFF: Thank you, Your Honor.

20 THE COURT: All right. Okay. So -- and, Ms. Lutz,
21 are heard you are there; is that correct?

22 MS. LUTZ: Yes. I'm here.

23 THE COURT: Okay. Fantastic.

24 All right. So thank you to everybody for providing
25 the information that the Court requested for the in-camera

1 review.

2 One question that I have for you, Ms. Lutz, is,
3 looking at the privilege log of the information that was
4 withheld, I believe that you indicated at our last hearing
5 that where you listed certain individuals, like defendants
6 Alan Johnston, Brant B. as reference points so --

7 MS. LUTZ: Correct.

8 THE COURT: Right. Okay. Good. Your -- with
9 respect to what you produced on those pages, did you only
10 produce the information about the reference points -- so, in
11 other words, Brant B. or Alan Johnston -- and was everything
12 else redacted?

13 MS. LUTZ: From my understanding of the question,
14 it's not just their names that were produced but also the
15 time stamp and all of those things in relation to those
16 names, then, yes.

17 THE COURT: Okay. But everything else -- then I
18 can assume that everything else on that particular page of
19 the extraction report was redacted?

20 MS. LUTZ: Was redacted.

21 THE COURT: Okay.

22 MS. LUTZ: Yes.

23 THE COURT: Okay. And then let me ask you
24 something -- another question. For -- let's take, for
25 example, a person by the name of David Melo -- M-e-l-o -- who

1 I think is listed as "Mel" in Mr. Lee's contacts.

2 MS. LUTZ: Uh-huh.

3 THE COURT: Did you know -- or -- that -- when you
4 were looking through the extraction report for responsive
5 documents, I assume that you understood that "Mel" referred
6 to David Melo?

7 MS. LUTZ: I would -- I would say yes. I don't --
8 I believe -- I believe so because I think that his name was
9 listed on the request. I would have to go back and review
10 the request, but I believe his name was listed there. So I
11 would say yes.

12 THE COURT: Okay. So I think his name was listed
13 as "David Melo." So what I'm trying to figure out is if we
14 have a disconnect between, maybe, how the person was listed
15 on the request and then the shorthand or nickname, moniker --

16 MS. LUTZ: Right.

17 THE COURT: -- that Mr. Lee has in his contacts for
18 that person.

19 MS. LUTZ: Right. I mean, I don't -- at the time
20 -- I don't recall offhand if at the time I knew that they
21 were related to the same person.

22 THE COURT: Okay. Because -- well, then you can
23 see where I'm going with that because then --

24 MS. LUTZ: I can. I can.

25 THE COURT: Okay. Okay. And then the same --

1 MS. LUTZ: But --

2 THE COURT: Go ahead. Go Ms. --

3 MS. LUTZ: I would -- because I would say there --
4 that's the case also for, like, "Brant B." You know, I went
5 ahead and assumed it was Brant Blakeman because there is -- I
6 do see there is a disconnect between, you know, the full
7 names and the shorthand names that are on the phone.

8 THE COURT: Okay. And I guess another individual
9 who I have listed where that could -- there could, similarly,
10 be a disconnect would be Charlie Mowat -- or Mowat
11 (pronouncing), who I think the contacts is "Chachy,"
12 C-h-a-c-h-y, perhaps?

13 MS. LUTZ: Oh. Okay. Yeah, that one I definitely
14 did not make the connection but --

15 THE COURT: Okay. Well, I guess, you know, it --
16 for me, then, it leads to the following question, Ms. Lutz --
17 and it seems like it would be reasonable to -- in evaluating
18 what is responsive, to talk to your clients -- client to say,
19 "Well, who is that?" or

20 MS. LUTZ: Okay.

21 THE COURT: -- "Is there another name?"

22 MS. LUTZ: Okay.

23 THE COURT: And now my question for -- and,
24 similarly, I think, to sit down with him when looking over
25 the requests -- for example, R.F.P.'s 10 and 11, any text or

1 e-mails with surfers who regularly surf or have regularly
2 surfed Lunada Bay -- to go through contacts in the cell phone
3 -- text messages, e-mails, et cetera -- to discuss with
4 Mr. Lee, "Well, who is this individual? Is he a contractor?"

5 Okay.

6 "Is he a physician?"

7 All right. That's not responsive.

8 "Who is this?"

9 "Oh, he's somebody that's" -- "that I go surfing
10 with at the bay."

11 MS. LUTZ: Uh-huh.

12 THE COURT: So I don't -- it sounds like that
13 hasn't been done, and I think it is appropriate for you to do
14 that, to look through this and then to talk to Mr. Lee to go
15 over the extraction report.

16 MS. LUTZ: I agree. And I think -- I looked over
17 the list of names that Mr. Otten provided to you, and I think
18 that's helpful as well as far as, you know, identifying who
19 are these, you know, surfers who regularly surf at
20 Lunada Bay.

21 THE COURT: Okay. All right. Well, I think -- I
22 think that that's what needs to happen next. And I think --
23 you have the list. I'm just going over the list here.

24 I was -- and, Mr. Otten and Mr. Wolff, help me out
25 here. I thought in looking at the R.F.P.'s, in particular,

1 that Ms. -- well, I mean, all of them but in particular that
2 I thought Ms. Lutz could focus on were R.F.P.'s 10, 11, 12,
3 13, 14 through 27, 30, and then 39 to 54. And again, for
4 example, 39 to 54, that's where, I think, Mr. Lee can be
5 helpful. Charles Thomas Mowat, what is his -- it looks like
6 it's "C-h-a-c-h-y" is how he might be referred to in Mr.
7 Lee's contacts.

8 Mr. Otten, Mr. Wolff -- I mean -- excuse me --
9 Ms. Wolff --

10 MR. OTTEN: Your Honor, this is Vic Otten.

11 In general, the problem with the approach that the
12 Court is suggesting is that Monday we have an opposition to
13 Mr. Lee's summary judgment motion, and what we have found is
14 that we can triangulate phone calls, text messages, and
15 events happening that are the subject matter of our lawsuit,
16 and by even limiting it to this -- the names of this list,
17 there are still people that I don't know who they are. We
18 have somebody that ran over my client, who is a police
19 officer, and ripped his hand open. I still don't know who
20 that person is, although I can tell you the defendants know
21 who it is because there was only five people surfing that
22 morning.

23 So this information has been withheld for months,
24 it's relevant, and the privacy objections are ridiculous. We
25 don't have time for them to go through this. That was their

1 opportunity to have done it for months. We have a motion due
2 and we've alleged civil conspiracy allegations, and those
3 civil conspiracy allegations are Sang Lee sending an e-mail
4 to people saying "Hey, there's a bunch of people coming" --
5 "outsiders coming up on Monday. Make sure you're there," or
6 text messages "Hey, there's five kooks on the bluff. Let's
7 get there. Things could get ugly" -- stuff like that -- and
8 we don't have the time to sit there and wait for Sang Lee's
9 lawyers to give us what we're entitled to. We should just be
10 given the report, and there's protective orders in place in
11 this case, and the main thing is it's being withheld on a
12 privacy objection and there's no privacy between -- with
13 those things except under very rare circumstances, and they
14 didn't list that, like they should have, in the privilege log
15 so that we could have all determined this months ago.

16 I'm -- I have to write a summary judgment motion --
17 in fact, five of them, I think -- and they all relate to the
18 same types of information, and, by the way, which has
19 probably been deleted, as Your Honor pointed out. I think
20 where we should be headed is towards adverse inferences and
21 spoliation issues because Mr. Lee said in his depo that he
22 was aware that he wasn't supposed to destroy evidence but
23 when -- just looking at the extraction log that we have, from
24 what little information we were given, it appears that he
25 did, and they all did, and I think to make us wait for

1 Mr. Lee's lawyers to sit down and go over this is just not
2 fair at this point.

3 We should just be given the information, we're
4 willing to sign a protective order, nothing -- there's -- can
5 almost assure you there's nothing bad in there except, maybe,
6 what his lawyer told me at the meet-and-confer, which is
7 photographs and stuff of him and women, but big deal. I
8 don't care about those. I want to see who they were talking
9 to because these people planned what they did, and really a
10 good example would be February 2nd, an *L.A. Times* article
11 comes out; February 3rd there are text messages from
12 Charlie Mowat to most of these guys -- I don't know if
13 Sang Lee was on those or not -- "Get to the bluff. There's
14 five kooks"; February 3rd, Charlie Mowat and three other
15 individuals also send letters to city councilmembers saying
16 "Fire Chief Kepley"; and then, lo and behold, the *L.A. Times*
17 shows up and takes a picture of two of the defendants on the
18 bluff top.

19 It's coordinated, we're entitled to this
20 information, and I think the Court should maybe
21 (indecipherable) ruling on that -- on the privacy objection.
22 There's no privacy objection. And then we move into the area
23 of give us the documents and then -- then that and adverse
24 inferences because you don't get to destroy documents,
25 especially in federal court. I've never seen anything like

1 this in federal court out of 23 years, until this case, where
2 defendants are destroying documents, and that's really -- I
3 mean, that's how I feel.

4 THE COURT: All right. So your request, Mr. Otten,
5 is just -- is to have the entire extraction report unredacted
6 produced to you?

7 MR. OTTEN: I would like it within the next three
8 hours. It could be e-mailed to us.

9 MS. LUTZ: Your Honor, may I be heard?

10 THE COURT: Yes. Yes, Ms. Lutz. And in -- if you
11 could focus on -- I guess what concerns me is that the
12 plaintiffs have these deadlines looming, and I do appreciate
13 their argument that there really is not a lot of time left
14 for them because of the deadline and it -- they're -- it's
15 not reasonable for them to hope that there is an extension.

16 MS. LUTZ: Well --

17 THE COURT: Go ahead.

18 MS. LUTZ: Sorry.

19 Your Honor, as I mentioned in the last hearing, you
20 know these documents were produced back in December.
21 Mr. Otten and I exchanged several meet-and-confer letters
22 throughout January, and we met in person on this exact issue
23 on February 1st. I never heard anything about this until
24 May 25th. So, you know, to now argue that they don't have
25 enough time to, you know, deal with this discovery issue is a

1 little ridiculous because we were discussing this issue back
2 in December, and this could have easily been handled at that
3 time.

4 So I don't understand why now, you know, they've
5 waited to bring this issue to the Court and now they're
6 claiming that they don't have enough time to review the
7 documents and file their motion when they've had nearly six
8 to seven months to do this. It's been the same issue since
9 February 1st in the in-person meet-and-confer with Mr. Otten.

10 THE COURT: Well, but -- I do appreciate that
11 point. I think I addressed it previously, which is there
12 have been a lot of moving parts on this case -- in this case
13 with respect to discovery, and I guess what concerns me is
14 when we have -- had our conversation earlier about what was
15 done, it sounds like in terms of the diligence there wasn't
16 -- there wasn't a sit down -- was not a sit down with your
17 client to figure out "Okay. Well, who are these individuals?
18 Let's make sure that we have been comprehensive and thorough
19 in responding to these R.F.P.'s."

20 And if there was, really, kind of, I think, genuine
21 meeting and conferring back in May, it seems to me like this
22 was on the front burner, and I still don't understand --
23 don't understand why, given that Mr. Otten and Ms. Wolff
24 reached out to you in May, it takes until now, after the
25 Court's done an in-camera review and after just, you know, a

1 few hours of looking at the extraction report is now
2 concerned about stuff that may not have been produced.

3 MS. LUTZ: Your Honor, can I be heard on that
4 issue?

5 THE COURT: Oh, absolutely. Please.

6 MS. LUTZ: The reason, I would say, is that, you
7 know, it's such a broad scope, especially in regards to
8 Request for Production 10 and 11. That list that Mr. Otten
9 provided the Court that I've had a chance to review, I --
10 half of those names I've never seen or heard before, and some
11 of them I heard recently during Mr. Mowat's deposition that
12 took place last Friday, but I think it would have been
13 helpful if there -- you know, a lot of these people my client
14 doesn't know and I -- so it's hard for me to come up with
15 names of people that he doesn't know to ask him whether he
16 knows them or not.

17 I think it would have -- I think this would have
18 been effective to have a list of names that Mr. Otten wanted
19 me to go through the extraction report to find. Some of
20 those names were provided in their request for production,
21 and those names were produced and were unredacted. I just --
22 I don't know how --

23 THE COURT: Well, it's --

24 MS. LUTZ: -- I could have --

25 THE COURT: Well, but I think --

1 MS. LUTZ: -- communicated with my client about who
2 these surfers are when sometimes he -- when he doesn't even
3 know the names of them.

4 THE COURT: Well, but --

5 MS. LUTZ: I think that's a continual problem in
6 this case that we've --

7 THE COURT: No, Ms. Lutz. It's --

8 MS. LUTZ: -- found over and over again in these
9 depos --

10 THE COURT: Ms. Lutz?

11 MS. LUTZ: -- is that a lot of these people --

12 THE COURT: Ms. Lutz?

13 MS. LUTZ: -- testified that --

14 THE COURT: Ms. Lutz?

15 MS. LUTZ: -- you know, they know that there's
16 other people surfing in the water --

17 THE COURT: Ms. Lutz?

18 MS. LUTZ: -- they can recognize their faces, but
19 they don't know their names. And so that's the problem, I
20 think, that we've had in this case, and I think that's the
21 problem that it's now --

22 THE COURT: Ms. Lutz, can you hear me?

23 MS. LUTZ: I'm sorry?

24 THE COURT: So I'm not at all persuaded by those
25 arguments for this reason: It sounds -- they are not asking

1 your client or you to identify unidentified people. As
2 extraction reports go, this is not that long, it's not that
3 dense, and what I haven't heard from you is that you sat down
4 with your client in a good -- to meet the good-faith effort
5 of going through, really, a pretty small document as document
6 reviews go to say, "Well, who is this individual? Is this
7 someone who you surf with?" And I think that, had that been
8 done initially, some of the issues that have arisen would
9 have been avoided, and I think that both you and your client
10 would have had a better grasp over the content of the
11 information in this extraction report.

12 So it wasn't done, and I don't take very well the
13 response that, "Well," somehow this is the plaintiffs' fault.
14 You have obligations to -- as an officer of the court to
15 respond to these discovery requests, to exercise due
16 diligence, and to speak to your client. So -- and I
17 recognize that the discovery in this case has been
18 complicated and it's involved multiple individuals and we've
19 had multiple telephonic conferences on this, but I guess I
20 just -- I don't -- arguments somehow pushing back on the
21 plaintiff are not well received when it looks like there just
22 -- there hasn't been the same -- the thoroughness that, I
23 think, had it been done in the first place, would have
24 avoided some of the issues.

25 So in looking at the extraction report, seeing some

1 of the individuals identified in there -- Joe Bart, Charlie
2 Mowat, David Melo -- it's not clear to me that information in
3 the report relating to those individuals has been produced.
4 It sounds like, I think, you might need to go back and
5 refresh your recollection and talk to Mr. Lee about whether
6 or not that has been produced. So those things need to
7 happen.

8 Mr. Otten's point that they have a very limited
9 amount of time, I think, does put on my mind why they
10 shouldn't be given the -- why shouldn't be given what they're
11 asking for, which is given that the clock is running out, why
12 not just produce the extraction report in its entirety? I
13 see that there is sensitive information in there. We can
14 draft a protective order. I take Mr. Otten at his word when
15 he says he's not interested in some of the more sensitive
16 personal information contained on the extraction report; he
17 really wants to get to information -- texts, phone calls --
18 with the other individuals, and if it's subject to a
19 protective order, why isn't that sufficient?

20 MS. WOLFF: Your Honor, if I may add one thing.
21 This is Samantha Wolff.

22 There is a protective order that's in place between
23 Mr. Lee and the plaintiffs and all the --

24 THE COURT: Right.

25 MS. WOLFF: -- and, actually, all the individual

1 defendants.

2 THE COURT: The only thing -- you know I -- I will
3 say that this is -- I appreciate the arguments about the
4 privacy for Mr. Lee for cell phones, and I think all of us
5 can agree that we -- you know, cell phones can have -- you
6 can have pictures of your children, you can -- you can just
7 have personal information that you don't want generally
8 disseminated, even among attorneys, and if Ms. Lutz wanted a
9 more-tailored protective order for this particular document,
10 piece of evidence, I'll hear her on that.

11 Again, I don't want -- my big concern here,
12 Ms. Lutz, is that I hear Mr. Otten and Ms. Wolff saying that
13 they have this deadline of Monday, and so I just -- there's
14 just not enough time -- today is Tuesday -- for you to go
15 back and take a look at this. Even if you spent 24 hours on
16 this, Ms. Lutz, and then talked to your client, that's
17 24 hours less time that Mr. Otten and Ms. Wolff have on this.

18 MS. LUTZ: I mean, I can do this as quickly as
19 possible, if you're still considering me speaking with my
20 client and then getting back to you on this. I mean, I can
21 do that in 24 hours, but if that's not fast enough -- you
22 know, my only hesitation is everything that you just said.
23 You know, there's a lot of very personal things, as there
24 would be in anyone's cell phone. There may be some text
25 messages not between -- that are even between me and Mr. Lee,

1 but that issue is aside.

2 I mean, all -- I guess all I can say is that I'm
3 sure I can speak with my client within the next 24 hours, and
4 if that works, then that would be great. If -- and that -- I
5 mean, that -- like I said, I can (inaudible) quickly as
6 possible, and if we want to put a 24-hour time limit, I can
7 make that. If that is too long, then I'll leave that to the
8 Court's discretion.

9 THE COURT: Okay. Well, I do think -- Ms. Wolff,
10 Mr. Otten, you said that there's been a request for an
11 extension submitted to Judge Otero? Was that ex parte or is
12 that a stipulation?

13 MS. WOLFF: It was ex parte.

14 MR. OTTEN: We tried to do it through a
15 stipulation, Your Honor, but nobody really called us back
16 except Mark Fields.

17 MS. WOLFF: And Peter Haven.

18 THE COURT: Okay. All right. Hold on just a
19 minute, please. If everyone could just stand by.

20 (Pause.)

21 THE COURT: All right. Thank you. I wanted to
22 confer with my law clerk, who has been working very hard and
23 diligently to help me on this.

24 And so, Ms. Lutz, here's what I propose: With
25 respect to the extraction report, I am going to order that it

1 be produced. I'm going to give you -- I'll give you until --
2 I'm going to give you until 2:00 o'clock to go through and
3 redact some of the sensitive photos that are on the
4 extraction report. If you would like a super protective
5 order specifically for this extraction report, then you -- I
6 encourage you to talk to Ms. Wolff and Mr. Otten to get that
7 drafted and to the Court.

8 Ms. Lutz, is there anything else, while we're on
9 this conference call, that you can think of that is
10 particularly sensitive besides the photographs?

11 MS. LUTZ: I believe there's at least one reference
12 to Mr. Lee's address, and, also, I would ask any
13 communication between me and Mr. Lee can get redacted.

14 THE COURT: Okay. All right. So communications
15 between you -- well, between Mr. Lee and his attorneys, and
16 Mr. Lee's residence, and, then, the photographs.

17 MS. LUTZ: Yes.

18 THE COURT: Okay. Do you know right now, Ms. Lutz,
19 if you -- just because it'll help -- I think help me in
20 planning -- as well as, of course, Ms. Wolff and Mr. Otten --
21 if you're going to want the super protective order?

22 MS. LUTZ: I will, Your Honor.

23 THE COURT: Okay. All right. So, again, that's
24 something that you're going to have to work on diligently
25 with the plaintiffs and if -- it's got to all happen by 2:00

1 because they need to get this information. Okay?

2 MS. LUTZ: Yes, Your Honor.

3 THE COURT: All right. Ms. Wolff, Mr. Otten,
4 anything else?

5 MR. OTTEN: Your Honor, I would also request that
6 to the extent they have the actual text messages that are
7 referred to in that extraction report that they be produced.
8 I don't know what the report -- how much information is in
9 there, because they redacted it all, but to the extent that
10 that report refers to text messages that were withheld for
11 some reason that they be given to us.

12 And one -- you know, the importance of this is, as
13 Ms. Wolff mentioned when she requested a hearing, was the
14 Ferraras have given us nothing. Even though the Court's
15 ordered it, they had waived all of their objections, and yet
16 we get several-hundred pages of claims of privilege and
17 things like that. So -- and they've all filed summary
18 judgments. So it's basically -- the gamesmanship here is not
19 fair. So any documents they have, we need to get, in
20 addition to the extraction report.

21 And with respect to a super protective order, I can
22 understand the Court's concern, but I can also understand,
23 given the conduct of most of the defense counsel in this
24 case, it'll turn into something nobody can agree on, which
25 will take us past the 2:00 o'clock deadline, and they'll

1 refuse to give us the information. I don't see the need for
2 the super protective order. We used the Court's protective
3 order off the court's Web site when -- and started this case,
4 and we've all signed off to it, and we've all honored it.
5 And again, like I said, we have no interest in Mr. Sang Lee's
6 photographs or anything of that personal nature. We're just
7 trying to respond to summary judgment motions now, and the
8 Federal Rules are pretty clear on people that have to
9 supplement discovery, people that have to, you know,
10 cooperate, and now we're in this situation.

11 So the plaintiffs would request that extraction
12 report. We don't want to see communications between Mr. Lee
13 and his lawyer, I have absolutely no desire to see naked
14 pictures of Mr. Lee or anybody, if that's what's in there,
15 and to produce the documents that they have.

16 THE COURT: All right. Ms. Lutz, so just to be
17 clear, the inability to reach an accord on a stipulated
18 protective order for the extraction report does not relieve
19 you of your obligation to produce the extraction report.

20 MS. LUTZ: Yes, Your Honor. And I'm planning on
21 using the original court protective order, primarily the
22 language from that, and just adding a few specific things
23 related to the extraction report. So I'm not planning on,
24 you know, drafting a whole new document per se --

25 THE COURT: Okay.

1 MS. LUTZ: -- just adding a few lines, likely.

2 THE COURT: Okay. All right.

3 MS. LUTZ: But, yes, I do understand that,
4 Your Honor.

5 THE COURT: Okay. All right. And other -- and
6 again, just to be clear, other than what we've itemized, it's
7 going to be an unredacted extraction report.

8 MS. LUTZ: Correct.

9 THE COURT: Okay.

10 All right. Mr. Otten, so the -- everything that
11 you have raised, then -- text messages, et cetera -- if it's
12 in the extraction report, it's going to be there, produced to
13 you, unredacted.

14 All right. So the next -- Ms. Bacon, I hope that
15 you will keep in mind when -- as you continue to work with
16 plaintiffs' counsel, regarding what they're asking for for
17 the Ferraras, the way this conversation, this conference has
18 gone today.

19 And then what we'll do is look to hear from
20 Ms. Wolff, Mr. Otten, Ms. Bacon for proposed dates and times
21 later this week.

22 MS. WOLFF: Thank you, Your Honor.

23 MS. BACON: Yes. That's fine, Your Honor.

24 THE COURT: Okay.

25 MS. BACON: I -- yes.

1 THE COURT: Okay. Thank you, Ms. Bacon.

2 MR. OTTEN: Your Honor, if I could say one last
3 thing -- and thank you, by the way -- is I see issues coming
4 up with the City's discovery that we're probably going to
5 want to tee up for a hearing as well. They still have not
6 produced things that they have to, and they've dumped
7 thousands and thousands of documents on us in the last two
8 weeks. I've got three people reviewing them now eight hours
9 a day to try and figure out what the issues are, but I can
10 see that I'll be requesting a hearing on that in the next day
11 or so. So if the City would like to meet and confer with us
12 as well and so we could put these dates on Your Honor's
13 calendar so it's convenient for Your Honor, that would be
14 something I would just request.

15 THE COURT: All right. Thank you very much. We
16 will keep a look out for that and try to work in as much as
17 possible. And, again, I apologize. It really is -- the
18 criminal calendar, it eats up a lot of my time. I have to go
19 someplace else and sit in a different courtroom for that, and
20 I can't leave until it's done so -- so, hopefully, we will be
21 able to schedule these other matters as quickly as possible.

22 Thank you very much, everybody, for participating
23 in today's conference.

24 MR. OTTEN: Thank you, Your Honor.

25 MS. LUTZ: Thank you, Your Honor.

1 UNIDENTIFIED SPEAKER: Thank you, Your Honor.

2 THE CLERK: Court is adjourned.

3 (Proceedings adjourned at 10:12 a.m.)

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CERTIFICATE

I certify that the foregoing is a correct transcript
from the electronic sound recording of the proceedings in the
above-entitled matter.

/s/ Julie Messa
Julie Messa, CET**D-403
Transcriber

August 18, 2017
Date